

REMARKS

Claims 1, 2, 7, 10, 11, 12 and 17 have been amended. Claims 8, 9 and 13 have been cancelled. Fifteen (15) claims remain in the application: claims 1-7, 10-12, and 14-18. Reconsideration of the rejections in view of the cancelled and amended claims is respectfully requested.

Applicants' invention is directed to a novel tag for use with a personnel monitoring system. As set forth in the specification, e.g., pages 6-14, applicants' tag includes many features that enable it to function reliably with a personnel monitoring system. Key among these features is the ability of the tag to accurately sense when it is being tampered with or removed from the individual to which it is attached, and to signal such a tamper condition to a remote location. The claims remaining in the application are believed to set forth these features in a way that is not shown or suggested by the known prior art.

The Examiner objected to certain informalities in the disclosure. It is believed that the amendments made to claims 10, 12, and 17 correct these informalities. In particular, claim 10 has been amended to make "mode" plural; claim 12 has been amended to correct the spelling of "capacitance"; and claim 17 has been amended to correct the spelling of "repetitive".

The Examiner objected to the specification under 35 USC 112, first paragraph, for failing to provide an enabling disclosure. In particular, the Examiner indicated that on page 25, next to last line, the term "CW" is not understood. Further, the Examiner rejected claim 10 under 35 USC 112, first paragraph, for the same reasons. It is respectfully pointed out to the Examiner that the term "CW" is a very common and old term used in the art to describe a "continuous wave" RF signal. Numerous textbooks could be cited, but Applicants refer simply to Websters New Collegiate Dictionary, 1973 Edition, page 282, wherein, under the entry "CW," the definition given includes "continuous waves". Further, even if CW were not a term well known in the art, which it is, Applicant has defined the term in the very same sentence where the term first appears by stating that the CW mode is one wherein "the tag transmits a continuous RF signal." Specification, page 25, last line, through page 26, first line. An applicant of a U.S. patent has always been permitted to be his own "lexicographer", and to define his words to mean whatever he wants them to mean. Accordingly, it is respectfully submitted that this objection and rejection are overcome because "CW" is a well known term in the art, and Applicants have further defined the term to mean the transmission of a continuous RF signal.

Claim 13 was rejected under 35 USC 112, fourth paragraph, as being of improper dependent form. Claim 13 has been cancelled.

* Claims 1-2 were rejected under 35 USC 103 as being unpatentable over Schwitzgebel et al (U.S. Patent No. 3,478,344). This rejection is respectfully traversed because Schwitzgebel et al does not show or suggest sensing means for sensing a plurality of prescribed tamper conditions associated with the operation and use of the tag as now set forth in amended claim 1. At best, Schwitzgebel suggests using a single electrical connection 42 as a continuity check of the band 40 in order to detect any attempts at cutting or removing the band 40. Col. 3, lines 23-28. There is no hint or suggestion in Schwitzgebel that any further tamper sensing means are needed or desired. (The "appropriate transducer components" referenced in col. 3, line 29, refers to different types of transducers, such as "counters, tape recorders, cameras, and measuring instruments," col. 6, lines 72-74, used for different purposes, col 7, line 1, than are the plurality of tamper sensing transducers contemplated by the present invention.) In contrast, Applicants' invention as claimed in claim 1 employs at least two tamper sensing circuits to determine if any tampering with the tag has occurred: one to detect if the band is broken or cut, and another to detect if the tag

has been removed from its position in contact with the skin or flesh of the tag's wearer.

Further, it is respectfully submitted that claim 1 is not unpatentable under 35 USC 103 by combining Schwitzgebel et al with Manning (U.S. Patent 4,259.665) nor with any other reference of record. The Examiner had rejected claims 3-7 and 12-28 under 35 USC 103 based on the Schwitzgebel et al and Manning combination. However, it is respectfully submitted that this combination does not present a prima facie case of obviousness for Applicants' claimed invention. Schwitzgebel et al, as explained above, discloses a single tamper sense means. Manning discloses a sleep or fatigue alarm that uses a single sense circuit to detect when an electrical circuit that includes conductive skin in contact with spaced-apart electrodes is broken, as when the skin is removed from the electrodes. Neither Schwitzgebel et al nor Manning teaches or suggests using more than one sense means or circuit, as claimed by Applicant. Without an express or inherent teaching in these references for why one of ordinary skill in the art would ever be prompted to combine one reference with the other, combining these references to arrive at Applicants' invention would, in Applicants' view, comprise an impermissible reconstruction of Applicant's invention using hind-sight.

It is further pointed out, with respect to Applicants' dependent claims directed to the advantageous feature of creating a capacitor having the skin or flesh of the tag's wearer as a dielectric material between spaced-apart electrodes, that the Manning reference teaches the use of spaced-apart electrodes for a very different purpose. Manning does not teach, show or suggest the use of the flesh as a dielectric material between capacitive plates formed from a spaced-apart electrodes. Manning teaches only placing a conductive material, such as skin (which is conductive) between two spaced-apart electrodes so that a continuous d.c. current can flow between the spaced-apart electrodes. Col. 2, lines 25-30. That the current flowing is a continuous d.c. current is evident from the description requiring that it flow through resistor R to establish a logic level voltage that will maintain a flip flop in a desired state. See col 2, lines 31-35. When, the skin is removed, the current stops flowing (because the circuit is open), thereby causing a different voltage to be developed at the flip flop, which triggers the alarm. Col. 2, lines 35-43. As such, the sensing circuit of Manning is not that different from the continuity check circuit described by Schwitzgebel et al. Both operate on the same basic principle--monitoring the continuity of a d.c. current flowing through a defined circuit path. Neither describes

or suggests a capacitive circuit of the type disclosed by Applicant.

In view of the above, it is respectfully submitted that the rejections of claims 3-7 and 12-18 based on Schwitzgebel et al combined with Manning are overcome and that a prima facie case of obviousness has not been established. Further, the rejection of claim 8, based on the combination of Schwitzgebel et al and Manning and further in view of Cooper (U.S. Patent No. 4,665,387) is likewise overcome for the same reasons (there is no suggestion or teaching that the suggested combination be made, and thus to make the combination is to resort to the impermissible use of hind-sight). Applicants were the first to recognize, insofar as Applicants are aware, that two tamper-sensing circuits could be combined in the same electronic tag used as part of a personnel monitoring system of the type described.

Further, it is noted that, as amended, claim 7 incorporates all of the limitations of cancelled claim 9, which claim was objected to as being dependent upon a rejected base claim. As such, amended claim 7, and all the claims that depend therefrom (claims 10-12, and 14-18), should be allowable for the same reasons that prior claim 9 would have been allowable but for its dependence upon a rejected base claim.

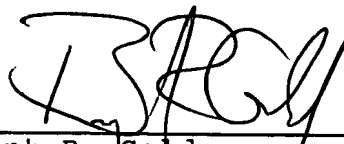
It is noted that a Petition and Fee for a Two Month Extension of Time has been submitted concurrently herewith as part of the transmittal documents accompanying this application.

Please direct any inquiry concerning this Amendment and Application to Bryant R. Gold at telephone number (818) 362-6822.

In view of the above, it is respectfully submitted that claims 1-7, 10-12 and 14-18 are patentably distinguishable over the known prior art. An early indication of this finding is earnestly solicited.

Respectfully submitted,

2/25/78
Date



Bryant R. Gold
Reg. No. 29,715
Attorney for Applicants

Bryant R. Gold
P.O. Box 987
Simi Valley, CA 93065
(818) 362-6822